

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

REY CABRAL,

1 Board of Veterans' Appeals, Department of Veterans' Affairs,
2 denying plaintiff's application for service-connected disability
3 benefits. On June 15, 2005, the court granted plaintiff's motion
4 for leave to proceed *in forma pauperis* (doc. # 5). Plaintiff also
5 requested that the court appoint counsel for him. The court granted
6 the motion, to the extent that the Clerk of the Court was directed
7 to request volunteer counsel (doc. # 8).

8 On November 16, 2005, defendant filed a motion to dismiss for
9 improper venue, or in the alternative to transfer this action to
10 the United States Court of Appeals for Veterans' Claims (doc. #
11 10). On November 30, 2005, plaintiff filed a motion for extension
12 of time to respond to defendant's motion (doc. # 12). On December
13 2, 2005, the court stayed the motion to dismiss pending a response
14 to the court's request for volunteer counsel (doc. # 13). On
15 December 7, 2005, the court issued an order finding that the court
16 had been unsuccessful in its efforts to obtain volunteer counsel
17 for plaintiff, vacating the stay, and ordering plaintiff to respond
18 to the defendant's motion to dismiss within 45 days (doc. # 14).
19 Plaintiff has not filed a response to the defendant's motion to
20 dismiss.

21 The United States Court of Appeals for Veterans' Claims has
22 exclusive jurisdiction over review of decisions issued by the Board
23 of Veterans Appeals. 38 U.S.C. § 7252(a) ("The Court of Appeals for
24 Veterans Claims shall have exclusive jurisdiction to review
25 decisions of the Board of Veterans' Appeals. ... The Court shall
26 have power to affirm, modify, or reverse a decision of the Board or
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1 to remand the matter, as appropriate.") Decisions by the Court of
2 Appeals for Veterans Claims are subject to review by the United
3 States Court of Appeals for the Federal Circuit. 38 U.S.C. §
4 7292(a). Accordingly, I recommend that the court grant defendant's
5 alternative motion (doc. # 10) that this case be transferred to the
6 United States Court of Appeals for Veterans' Claims.

7 **Scheduling Order**

8 The above Findings and Recommendation will be referred to a
9 United States District Judge for review. Objections, if any, are
10 due March 13, 2006. If no objections are filed, review of the
11 Findings and Recommendation will go under advisement on that date.
12 If objections are filed, a response to the objections is due March
13 27, 2006, and the review of the Findings and Recommendation will go
14 under advisement on that date.

15 Dated this 24th day of February, 2006.

16
17 /s/ Dennis James Hubel

18 Dennis James Hubel
19 United States Magistrate Judge
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